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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,753	09/19/2003	Grace Tallon	5497-8	6985

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EXAMINER

MOHANDESI, JILA M

ART UNIT PAPER NUMBER

3728

DATE MAILED: 08/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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**Office Action Summary**

Application No.

10/665,753

Applicant(s)

TALLON, GRACE

Examiner

Jila M. Mohandes

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 June 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 3-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 4, 5, 9-10 and 13-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Murphy et al. (5,791,482). Murphy '482 discloses an artificial fingernail package comprising: a packaging frame (transparent wall 13) for storing a plurality of artificial fingernails of varying width and sizes; and an exterior portion (transparent wall 12) that houses said packaging frame, said exterior portion comprising a transparent portion for allowing the arch height of at least one of said artificial fingernails to be observable outside of said package, wherein said packaging frame comprising a curvature-displaying compartment having at least two different ones of said artificial fingernails and means for retaining said at least two different ones of said artificial fingernails such that at least one of a c-curve and an arch height of each of said at least two different ones of said artificial fingernails is observable outside of said package through said transparent portion of said exterior portion. See Figure 3 embodiment which is a side view of the package and clearly discloses two different ones of said artificial fingernails such that at least one of a c-curve and an arch height of each at least two different ones of said artificial fingernails is observable outside of said package through said transparent portion of said exterior portion.

With respect to claim 4, note storage chamber (19), which stores a plurality of artificial fingernails.

With respect to claim 5, note display compartment (25) containing at least one said artificial fingernails, wherein the top surface of said one artificial fingernails is observable outside of said package through said transparent exterior portion.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claims 11-12, 18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murphy.

With respect to claim 12 and the material of the package, it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

With respect to claim 11, Murphy discloses a package containing different sizes and curvature of artificial nails, which could be used as a nail tip.

Claims 18 and 20 are directed to the obvious method of packaging the artificial fingernails in the package of Murphy.

6. Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over either one of Murphy in view Aylott '614. Murphy disclose all the limitations of the claims except for adhesive compartment that contains adhesive, a stick compartment that contains a stick and a pin compartment that contains a push pin.

Aylott '614 discloses an artificial fingernail package that discloses an adhesive compartment as shown in Figure 1 embodiment for holding a container of adhesive (7) and a stick compartment also shown in Figure 1 embodiment for holding a manicure stick (9). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide an adhesive compartment and a stick compartment to the package of Murphy as taught by Aylott '614 for holding an adhesive container and a manicure stick.

The limitation under Official notice is now taken as admitted prior art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made and in view of the admitted prior art to provide an additional compartment in the package of Murphy for containing a push pin.

7. Claims 3 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murphy view of Ovadia (4,282,975). Murphy discloses all the limitations of the claims except for the package containing a sponge-like material with a slit for receiving the

artificial fingernails. Ovadia '975 discloses a display package with a sponge and slit (33 734) for better holding and displaying jewelry. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a sponge with slit to the package of Murphy as taught by Ovadia '975 for better displaying the artificial fingernails.

Claim 19 is directed to the obvious method of packaging the artificial fingernails in the modified package of Murphy.

### ***Response to Arguments***

8. Applicant's arguments filed June 05, 2006 have been fully considered but they are not persuasive.

Contrary to applicant's argument and as shown in Figure 3 embodiment of Murphy, which is a side view of the package and clearly discloses two different ones of said artificial fingernails such that at least one of a c-curve and an arch height of each at least two different ones of said artificial fingernails is observable outside of said package through said transparent portion of said exterior portion.

### ***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

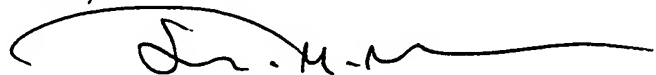
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jila M. Mohandesi whose telephone number is (571) 272-4558. The examiner can normally be reached on Monday-Friday 7:30-4:00 (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Jila M Mohandesi  
Primary Examiner  
Art Unit 3728

JMM  
August 08, 2006